

REMARKS

In response to the Decision, Applicant has amended claims 1, 11, 21, 31, 41, and 49, added new claim 50, and filed an RCE for consideration of the claims as amended. Claims 2-3, 12-13, 22-23, 32-33, and 42-43 having previously been canceled, claims 1, 4-11, 14-21, 24-31, 34-41, and 44-50 remain for consideration in the application. No new matter has been added. Support for new claim 50 is found, for example, at paragraph 13 of the original specification.

Claims 1, 11, 21, 31, 41, and 49 have each been amended to change the language “integral to” to “part of.” The claims each now recite that “the executing process is part of an operating system.” This is neither taught nor disclosed by any single cited reference, nor reasonably suggested by any combination of cited references. The Board upheld the Examiner’s interpretation of the term “integral to” as not requiring that the assertion is from the operating system, but only that is be “integral to” an operating system. The Board then interpreted “integral to” to an interpretation of “a program running under or executing under (integral to) the operating system [,] which includes any assertions from any executing processes of an application program.” While Applicant disagrees with this interpretation, nevertheless, Applicant has argued that “integral to” means “part of” an operating system, and by the amendments to the claims, has expressly made the change from “integral to” to “part of.” This change was noted by the Board as possible during prosecution, but not done. It is done now.

As amended, claims 1, 11, 21, 31, 41, and 49 recite that “the executing process is part of an operating system.” The broad Examiner and Board interpretation of “integral to” as stated by the Board (at page 6 of the Decision) is that “GNU at least strongly suggests an executing process that is ‘integral to’ (i.e., running under the control of) an operating system.” Applicant has amended, as suggested by the Board (at page 7 of the Decision), to clarify the meaning and intended scope of the claim limitation “integral to” to “part of.” In GNU, a reading of the plain language of “check an error return from an operating system function” (the Examiner’s Answer’s emphasized phrase) shows that the assertion method is separate from the operating system, and is in no way part of it, as is recited by the claims as amended. The external program receives an error return from the separate operating system, and acts upon it. The external program is not part of the operating system. It is clearly a separate program. While the external program may operate with or even under the operating system, but it is not a part of that operating system. As such, the claims recite limitations not found in the cited art, and they are allowable.

Claims 4-10, 14-20, 24-30, 34-40, and 44-48 depend from and further define one of patentably distinct claims 1, 11, 21, 31, or 41, and are also believed allowable.

Conclusion

For at least the reasons discussed above, Applicant submits that all pending claims are patentable. Accordingly, Applicant requests that a Notice of Allowance be issued in this application.

Respectfully submitted,

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